

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

LINDA DIAMONTE
Plaintiff,

v.

C.A. No.: 1:19-cv-00060-WES-PAS

TOWN OF COVENTRY,
By and through its Treasurer,
JOHN ARNETT, DANIEL A. SERINA,
A police officer employed by the Town of
Coventry, KENNETH GEBO, a police
Officer employed by the Town of Coventry,
And JOHN DOES 1 through 10, inclusive,
As employees of the Town of Coventry.
Defendants.

DEFENDANTS' ANSWER TO COMPLAINT

Now come Defendants, Town of Coventry, by and through its Treasurer, John Arnett, Daniel A. Serina, a police officer employed by the Town of Coventry, Kenneth Gebo, a police officer employed by the Town of Coventry and answers Plaintiff, Linda Diamonte's complaint as follows:

As to "Introductory Statement"

1. Defendants deny the unnumbered introductory statement of the Plaintiff's complaint.

As to "Parties"

2. Defendants admit the allegations contained in Paragraph Nos. 1, 2, 3 and 4 of the Plaintiff's complaint entitled "Parties".
3. Defendants deny the allegations contained in Paragraph No. 5 of the Plaintiff's complaint entitled "Parties".

As to "Jurisdiction and Venue"

4. Defendants admit the allegations contained in Paragraph Nos. 6 and 7 of the Plaintiff's complaint entitled "Jurisdiction and Venue".

As to "Material Facts"

5. Defendants are without sufficient information to admit or deny the allegations contained in Paragraph Nos. 8, 9, 10 and 11 of the Plaintiff's complaint entitled "Material Facts" and leave Plaintiff to her proof of same.
6. Defendants admit the allegations contained in Paragraph Nos. 12, 13, 14, 15, 20, 25, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 and 38 of the Plaintiff's complaint entitled "Material Facts".
7. Defendants deny the allegations contained in Paragraph Nos. 16, 17, 18, 19, 21, 22, 23, 24, 26, 27, 40, 41, 42, 43, 44 and 45 of the Plaintiff's complaint entitled "Material Facts".

As to "Count One – 42 U.S.C. § 1983 (Unlawful Arrest)"

8. Defendants reassert and incorporate their responses to the allegations contained in Paragraph Nos. 1 through 46 as said allegations are incorporated in Paragraph No. 47.
9. Defendants make no response to Paragraph No. 48 because 42 U.S.C. § 1983 speaks for itself.
10. Defendants admit the allegations contained in Paragraph Nos. 49 and 50 of the Plaintiff's complaint entitled "Count One".
11. Defendants deny the allegations contained in Paragraph Nos. 51, 52 and 53 of the Plaintiff's complaint entitled "Count One".

As to "Count Two – Article I, §6 of the Rhode Island Constitution"

12. Defendants admit the allegation contained in Paragraph No. 54 of the Plaintiff's complaint entitled "Count Two".

13. Defendants make no response to the allegations contained in Paragraph No. 55 because Article I, §6 speaks for itself.

14. Defendants deny the allegations contained in Paragraph Nos. 56 and 57 of the Plaintiff's complaint entitled "Count Two".

As to "Count Three – Negligence"

15. Defendants deny the allegations contained in Paragraph Nos. 58 and 59 of the Plaintiff's complaint entitled "Count Three".

As to "Count Four – False Arrest"

16. Defendants deny the allegations contained in Paragraph Nos. 60 and 61 of the Plaintiff's complaint entitled "Count Four"

As to "Count Five – Malicious Prosecution"

17. Defendants deny the allegations contained in Paragraph Nos. 62 and 63 of the Plaintiff's complaint entitled "Count Five"

AFFIRMATIVE DEFENSES

These Defendants affirmatively plead the following defenses:

FIRST AFFIRMATIVE DEFENSE

These Defendants affirmatively plead absolute and qualified immunity to the within complaint.

SECOND AFFIRMATIVE DEFENSE

These Defendants plead all forms of statutory and common law immunity including the public duty doctrine to the within complaint.

THIRD AFFIRMATIVE DEFENSE

These Defendants plead the statutory cap on damages as a bar and restriction on the

amount of damages recoverable in this matter.

Defendants demand a trial by jury.

Defendants,
By their Attorney,

/s/ Marc DeSisto

Marc DeSisto, Esq. (#2757)

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CERTIFICATION OF SERVICE

I hereby certify, that on this 4th day of March 2019, I electronically filed and served this document through the electronic filing system upon the following parties:

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The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Marc DeSisto